

Senate Constitutional Amendment No. _____

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 36 to Article XIII thereof, relating to local government finance.



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Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2011–12 Regular Session commencing on the sixth day of December 2010, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First—This measure shall be known and may be cited as the “Public Safety and Public Education Act of 2011.”

Second—Findings and declarations of purpose:

(a) This measure is part of the Governor’s plan to balance the state budget and help solve the state’s ongoing fiscal crisis. The plan reduces state spending; keeps tax rates steady at their 2010 level and drops them to their 2008 level in five years; and provides local control over vital government services.

(b) This measure keeps sales and use taxes, vehicle license fees, and income taxes at the same rates that were in effect in 2010. In five years those tax rates will automatically drop to their 2008 level.

(c) Approximately one-half of the revenues from this measure will help prevent cuts to K-12 public schools and community colleges.

(d) The other one-half of the revenues from this measure will go to local governments to fund public safety services. The measure guarantees that local governments will continue to receive funding for these programs even after the tax rates that are kept steady by this measure drop to their 2008 level in five years.



(e) All the revenues from this measure will be audited and accounted for by the independent State Controller. They will not be used for any purpose other than funding schools and public safety services.

Third—That Section 36 is added to Article XIII thereof, to read:

SEC. 36. (a) For purposes of this section:

(1) “Public Safety Services” includes the following:

(A) Employing and training public safety officials, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Providing fire prevention and support services.

(D) Preventing child abuse, neglect, or exploitation, providing services to children, and their families, who are at risk of abuse, neglect, or exploitation, providing adoption services, providing transitional housing and other services to emancipated youth, and providing adult protective services.

(E) Providing community mental health services and mental health services to children and adults to reduce failure in school, harm to themselves and others, homelessness, and preventable incarceration.

(F) Preventing, treating, and providing recovery services for alcohol and drug abuse.

(2) “2011 Realignment Legislation” means legislation enacted on or before December 31, 2011, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including



related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature by statute.

(b) (1) The sales tax described in subdivision (a) of Section 6051.7 of the Revenue and Taxation Code, as that section read on January 1, 2011, shall continue in operation on and after July 1, 2011, and shall cease to be operative on July 1, 2016.

(2) The use tax described in subdivision (a) of Section 6201.7 of the Revenue and Taxation Code, as that section read on January 1, 2011, shall continue in operation on and after July 1, 2011, and shall cease to be operative on July 1, 2016.

(3) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this subdivision.

(4) The continuation of the sales and use taxes described in this subdivision maintains and does not increase the 2010 sales and use tax rates.

(c) (1) (A) (i) The amount of the license fee described in paragraph (2) of subdivision (a) of Section 10752 of the Revenue and Taxation Code, as amended by Section 4 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, shall continue in operation on and after July 1, 2011, and shall cease to be operative on July 1, 2016.



(ii) Section 10752 of the Revenue and Taxation Code, as added by Section 5 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, shall not become operative until July 1, 2016.

(B) (i) The amount of the license fee described in paragraph (2) of subdivision (a) of Section 10752.1 of the Revenue and Taxation Code, as amended by Section 6 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, shall continue in operation on and after July 1, 2011, and shall cease to be operative on July 1, 2016.

(ii) Section 10752.1 of the Revenue and Taxation Code, as added by Section 7 of Chapter 18 of the Third Extraordinary Session of the Statutes of 2009, shall not become operative until July 1, 2016.

(C) The amount of the license fee described in subdivision (a) of Section 10752.2 of the Revenue and Taxation Code, as that section read on January 1, 2011, shall continue in operation on and after July 1, 2011, and shall cease to be operative on July 1, 2016.

(2) The Vehicle License Fee Law, including any amendments enacted on or after the effective date of this section, shall apply to the fees imposed pursuant to this subdivision.

(3) The continuation of the vehicle license fees described in this subdivision maintains and does not increase the 2010 vehicle license fee.

(d) (1) All revenues, less refunds and costs of administration, derived from the continuation of the taxes described in subdivisions (b) and (c) shall be deposited into the Local Revenue Fund 2011, which is hereby created in the State Treasury.



(2) Funds transferred to the Local Revenue Fund 2011 shall be continuously appropriated by the Legislature exclusively to fund the provision of Public Safety Services by local agencies, and to reimburse the State for costs incurred in providing Public Safety Services on behalf of local agencies on or after July 1, 2011, pending full implementation of the 2011 Realignment Legislation.

(3) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the county treasury or city and county treasury. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the local agency provision of Public Safety Services as specified by the 2011 Realignment Legislation.

(4) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of subdivision (b) of that section. Moreover, any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities or any other matter, is in furtherance of its duties under subdivision (b) of Section 3 of Article I, and shall not be deemed a reimbursable mandate under Section 6 of Article XIII B.

(5) (A) Legislation enacted after the 2011 Realignment Legislation that has an overall effect of increasing the cost borne by a local agency for programs or



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levels of service mandated by the 2011 Realignment Legislation shall be operative, and a local agency shall be obligated to perform additional responsibilities pursuant to the legislation that result in additional cost, only to the extent that the State provides annual funding for the cost increase. This subparagraph shall not apply to legislation that would not require a subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B.

(B) Except as necessary to implement the 2011 Realignment Legislation, regulations adopted or executive orders issued after the enactment of the 2011 Realignment Legislation that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall be operative, and a local agency shall be obligated to perform additional responsibilities pursuant to those regulations or executive orders that result in additional cost, only to the extent that the State provides annual funding for the cost increase.

(C) The State shall not submit any plans to the federal government, or submit any amendments to those plans, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the increases or amendments are required by federal law, or the State provides annual funding for the cost increase.

(D) The State shall not be required to provide a subvention of funds pursuant to this paragraph as to a mandate that is imposed by the State at the request of local agency or to comply with federal law. Funds provided as described in



subparagraphs (A) to (C), inclusive, shall be from a source other than those described in subdivisions (b), (c), and (e), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(E) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (D) to (F), inclusive, of paragraph (1) of subdivision (a), the State shall not enter into a settlement of the matter for which the overall effect would be to mandate a new program or higher level of service on the part of one or more local agencies beyond the scope of responsibilities assigned under the 2011 Realignment Legislation, unless the settlement is approved by a number of those local agencies representing at least a majority of the aggregate population of those local agencies. This approval is not required if (i) the State determines that the complaint concerns the failure of one or more local agencies to perform a ministerial duty imposed by law, or to perform a legal obligation in good faith, or that the complaint concerns negligent or reckless actions on the part of one or more local agencies, or (ii) the State agrees to annually provide the funds necessary to meet the additional costs thereby incurred by local agencies, from funding sources other than those described in subdivisions (b), (c), and (e), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) The funds deposited into a County Local Revenue Fund 2011 shall be used exclusively for the programs transferred as part of the 2011 Realignment Legislation, and shall be spent in a manner designed to maintain the State's



eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(7) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(8) This section shall not be construed to prevent the Legislature from subsequently imposing a fee or tax enacted in accordance with the Constitution.

(e) When the taxes described in subdivisions (b) and (c) cease to be operative and drop to their 2008 levels, the State shall provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivisions (b) and (c). The method for determining these amounts shall be described in statute, and the State shall be obligated to provide those amounts for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. Unless an appropriation of that amount to local agencies to fund Public Safety Services is otherwise made in the budget act or other statute, the Controller shall transfer the amount of funding necessary to meet these obligations from the General Fund to the Local Revenue Fund 2011 each year, which amount is hereby appropriated to the Controller for disbursement to local agencies in the manner directed by the 2011 Realignment Legislation. This continuing appropriation shall have lower priority than the appropriations made for payment of the obligations described in Section 1 of Article XVI, and Section 8 of Article XVI.



(f) (1) The tax percentage increase described in paragraph (2) of subdivision (a) and paragraph (2) of subdivision (c) of Section 17041 of the Revenue and Taxation Code, as that section read on January 1, 2011, shall continue in operation for taxable years beginning on or after January 1, 2011, and shall cease to be operative for taxable years beginning on or after January 1, 2016.

(2) The amount of credit allowed by subparagraph (A) of paragraph (3) of subdivision (d) of Section 17054 of the Revenue and Taxation Code, as that section read on January 1, 2011, shall continue in operation for taxable years beginning on or after January 1, 2011, and shall cease to be operative for taxable years beginning on or after January 1, 2016.

(3) (A) The tax percentage described in clause (iii) of subparagraph (A) of paragraph (3) of subdivision (b) of Section 17062 of the Revenue and Taxation Code, as that section read on January 1, 2011, shall continue in operation for taxable years beginning on or after January 1, 2011, and shall cease to be operative for taxable years beginning on or after January 1, 2016.

(B) Clause (iv) of subparagraph (A) of paragraph (3) of subdivision (b) of Section 17062 of the Revenue and Taxation Code, as that section read on January 1, 2011, shall be operative only for taxable years beginning on or after January 1, 2016.

(4) The continuation of the tax rates and credit amounts allowed pursuant to this subdivision maintains and does not increase the 2010 personal income tax rate.



(5) No addition to tax shall be imposed under Section 19136 of the Revenue and Taxation Code, as that section read on January 1, 2011, to an underpayment to the extent that the underpayment was created or increased by any provision of this subdivision.

(g) (1) Beginning July 1, 2011, and ending June 30, 2016, the Controller shall deposit 6.5 percent of monthly net personal income tax receipts, within the meaning of Section 19602.5 of the Revenue and Taxation Code, as that section read on January 1, 2011, into the Education Protection Account, which is hereby created in the State Treasury. Notwithstanding any other provision of this Constitution, these moneys shall be deemed "General Fund revenues" and "General Fund proceeds of taxes" for the purposes of Section 8 of Article XVI.

(2) All funds in the Education Protection Account shall be appropriated by the Legislature by statute each year for the support of school districts and community college districts. These appropriations shall be deemed moneys applied by the State for the support of those entities for purposes of Section 8 of Article XVI.

(h) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011, any County Local Revenue Fund 2011, and the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.



Fourth—This measure shall take effect the day after the election in which it is approved by a majority of the voters voting on the measure and shall be operative as provided by Section 36 of Article XIII of the California Constitution.

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LEGISLATIVE COUNSEL'S DIGEST

SCA No.

as introduced, _____.

General Subject: The Public Safety and Public Education Act of 2011.

(1) Existing law, until July 1, 2011, imposes a state sales and use tax on retailers and on the storage, use, or other consumption of tangible personal property in this state at the rate of 7 $\frac{1}{4}$ % of the gross receipts from the retail sale of tangible personal property in this state and of the sales price of tangible personal property purchased from any retailer for storage, use, or other consumption in this state. Existing law reduces the state sales and use tax rate by 1% on July 1, 2011.

The Vehicle License Fee Law establishes, until July 1, 2011, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 1.15% of the market value of that vehicle, as provided. Existing law, on and after July 1, 2011, reduces that rate to 0.65%.



This measure would extend the existing sales and use tax rate and vehicle license fees until July 1, 2016, and would deposit the revenues derived from the increase in those taxes into the Local Revenue Fund 2011, established by this measure, to be appropriated by the Legislature to fund the provision of public safety services, as described, by local agencies pursuant to the 2011 Realignment Legislation, as defined. This measure would also provide that the assignment of responsibilities to local agencies under the 2011 Realignment Legislation shall not be reimbursable as a new program or higher level of service, but would require reimbursement to local agencies resulting from subsequent state actions under certain circumstances. This measure would further state that local agency costs increased in complying with statutory open meeting requirements are in furtherance of existing constitutional requirements, and shall not be deemed a reimbursable state mandate.

This measure would additionally provide, when the rates in the above-described taxes cease to be operative, for the appropriation of state funds in an equivalent amount to fund the provision of public safety services.

(2) The Personal Income Tax Law imposes taxes based upon taxable income. That law also allows credits for personal exemptions, and imposes an alternative minimum tax, as specified. Existing law, for taxable years beginning on or after January 1, 2009, and before January 1, 2011, decreased the amount allowable as a credit for personal exemption for dependents, increased the tax rate applicable to taxable income, and increased the alternative minimum tax rate, as provided.

This measure would continue the decrease in the amount allowable as a credit for personal exemption for dependents, the increase in the tax rate applicable to taxable



income, and the increase in the alternative minimum tax rate for taxable years beginning before January 1, 2016. This bill would require the Controller to deposit 6.5% of the net personal income tax receipts, as defined, into the Education Protection Account, established by this measure. Funds in the account would be appropriated by the Legislature for the support of school districts and community college districts, and would apply to the state's constitutional minimum funding obligation under Proposition 98.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

